

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA (PHILADELPHIA)**

<b>IN RE:</b>	:	
<b>DONNA M FITZPATRICK</b>	:	<b>BK. No. 19-11499-amc</b>
<b>Debtor</b>	:	
	:	<b>Chapter No. 13</b>
<b>FREEDOM MORTGAGE CORPORATION</b>	:	
<b>Movant</b>	:	
<b>v.</b>	:	
<b>DONNA M FITZPATRICK</b>	:	
<b>LEBER R FITZPATRICK (NON-FILING CO-DEBTOR)</b>	:	<b>11 U.S.C. §362</b>
<b>Respondents</b>	:	

**MOTION OF FREEDOM MORTGAGE CORPORATION FOR RELIEF FROM  
AUTOMATIC STAY UNDER §362 AND CO-DEBTOR STAY UNDER §1301 PURSUANT  
TO BANKRUPTCY PROCEDURE RULE 4001**

Movant, by its attorneys, PHELAN HALLINAN DIAMOND & JONES, LLP, hereby requests a termination of Automatic Stay and Co-Debtor Stay and leave to foreclose on its mortgage on real property owned by DEBTOR, DONNA M FITZPATRICK AND NON-FILING CO-DEBTOR, LEBER R FITZPATRICK.

1. Movant is **FREEDOM MORTGAGE CORPORATION**.
2. DEBTOR, DONNA M FITZPATRICK AND NON-FILING CO-DEBTOR, LEBER R FITZPATRICK, are the owners of the premises located at **1203 SWARTHMORE AVE, FOLSOM, PA 19033**, hereinafter known as the mortgaged premises.
3. Movant is the holder of a mortgage on the mortgaged premises.
4. Debtor's failure to tender monthly payments in a manner consistent with the terms of the Mortgage and Note result in a lack of adequate protection.
5. Movant instituted foreclosure proceedings on the mortgage because of Debtor's failure to make the monthly payment required hereunder.
6. The foreclosure proceedings instituted were stayed by the filing of the instant Chapter 13 Petition.
7. As of February 13, 2020, Debtor has failed to tender post-petition mortgage payments for the months of December 2019 through February 2020. The monthly payment amount

for the months of December 2019 through February 2020 is \$2,138.98 each, less suspense in the amount of \$544.16, for a total amount due of \$5,872.78. The next payment is due on or before March 1, 2020 in the amount of \$2,138.98. Under the terms of the Note and Mortgage, Debtor has a continuing obligation to remain current post-petition and failure to do so results in a lack of adequate protection to Movant.

8. Movant, **FREEDOM MORTGAGE CORPORATION**, requests the Court award reimbursement in the amount of \$1,031.00 for the legal fees and costs associated with this Motion.

9. Movant additionally seeks relief from the Co-Debtor Stay under §1301(c) (if applicable) in the instant case, as the continuation of the co-debtor stay causes irreparable harm to the Movant. Movant may be barred from moving forward with its state court rights under the terms of the mortgage without relief from the Co-Debtor Stay.

10. Movant has cause to have the Automatic Stay and Co-Debtor Stay terminated as to permit Movant to complete foreclosure on its mortgage.

11. Movant specifically requests permission from the Honorable Court to communicate with Debtor and Debtor's counsel to the extent necessary to comply with applicable nonbankruptcy law.

12. Movant, its successors and assignees posits that due to Debtor's continuing failure to tender post-petition mortgage payments and the resulting and ever increasing lack of adequate protection that said failure presents, sufficient grounds exist for waiver of Rule 4001(a)(3), and that Movant, its successors or assignees should be allowed to immediately enforce and implement the Order granting relief from the Automatic Stay and Co-Debtor Stay.

13. Movant requests that if relief is granted that Federal Rule of Bankruptcy Procedure 3002.1 be waived.

**WHEREFORE**, Movant respectfully requests that this Court enter an Order;

a. Modifying the Automatic Stay under Section 362 and Co-Debtor Stay under

Section 1301 with respect to **1203 SWARTHMORE AVE, FOLSOM, PA 19033** (as more fully set forth in the legal description attached to the Mortgage of record granted against the Premises), as to allow Movant, its successors and assignees, to proceed with its rights under the terms of said Mortgage; and

b. That relief from any Co-Debtor Stay (if applicable) is hereby granted; and

c. Movant specifically requests permission from this Honorable Court to communicate with Debtor and Debtor's counsel to the extent necessary to comply with applicable nonbankruptcy law; and

d. Holding that due to Debtor's continuing failure to tender post-petition mortgage payments and the resulting and ever increasing lack of adequate protection that said failure presents, sufficient grounds exist for waiver of Rule 4001(a)(3), and that Movant, its successors or assignees, should be allowed to immediately enforce and implement the Order granting relief from the Automatic Stay and Co-Debtor Stay; and

e. Waiving Federal Rule of Bankruptcy Procedure 3002.1; and

f. Granting any other relief that this Court deems equitable and just.

/s/ Jerome Blank, Esquire  
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